22nd June, 2017

Matthew Kellway
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VIA Canada Post, email and RESS Filing

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge St.
Toronto, ON
M4P 1E4

Re: EB-2015-0040 Consultation on the Regulatory Treatment of Pensions and Other Post-Employment Benefit Costs
The Society of Energy Professionals' Comments on Implementation Matters

Dear Ms. Walli,

Further to the OEB's letter of the 18th of May 2017 in the subject consultation, attached please find The Society of Energy Professionals' comments on the six implementation matters which were identified.

Thank you.

[original signed by]

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OEB Report Considerations

In its May 18, 2017 cover letter to its report on the Consultation on the Regulatory Treatment of Pensions and Other Post-Employment Benefit Costs (Board File Number EB-2015-0040), the OEB requested participants' comments on several implementation matters. The Society of Energy Professionals (The Society) is providing its comments as requested.

The Society generally supports the policy determinations contained in the report, including the use of the accrual method as a default basis of regulating employee benefits. However, the Society is also pleased to see that individual OEB panels will be empowered to make exceptions to this default treatment where it does not result in fair and reasonable rates and where it causes inconsistency with past treatments. The Society agrees with the general practice that "the OEB will generally keep its choice of regulatory treatment of pension and OPEB costs (e.g. method used to determine recovery) consistent over time for any given utility." The Society can think of specific instances where such a policy exception may well be warranted.

The Society has one general reservation with the report and with the consultation process. After a process that has taken in excess of two years, The Society is somewhat disappointed to see that the OEB's report includes policy determinations that were not identified and, as a result, which were not adequately debated in the written or oral segments of the consultation. There should have been ample opportunity to fully discuss these proposals. Specifically, The Society believes that the use of an one-sided interest calculation method for the new variance tracking account and the use of the OEB's CWIP interest rate to calculate such interest both represent non-standard regulatory approaches that would have benefitted from full public review, discussion and possible challenge. The Society is particularly concerned that these novel approaches, which have not been sufficiently examined, may see expanded use in future hearings as precedents and analogies. This would be unfortunate as they may be flawed in terms of compliance with general accepted regulatory principles.

The Society's comments on the OEB's specific implementation matters follow below.

1) Effective Date of the New Variance Tracking Account

The Society has no significant concerns with the OEB's recommended implementation date for the new tracking account. The prospective implementation of the account is consistent with the standard practice for the adoption of a new regulatory treatment of this nature. Beginning tracking immediately makes sense in the context of the report's other recommendations.

A retroactive implementation would not have been appropriate as it would have represented retroactive rate making and would potentially have created an immediate incremental interest liability for utilities with an historical excess of accrual versus cash basis benefits costs. This would not be appropriate for the reason stated above. In addition, the calculation of interest on such differentials ignores the fact that cash previously collected under such timing differences likely avoided the incurrence of incremental debt, resulting in lower borrowing costs to customers.

2) Mechanics of the New Variance Tracking Account

The OEB Report's Appendix D journal entries illustrating the new variance tracking account appear to be simple and appropriate. The Society is of the opinion that the final illustrative entry showing a disposition of 75 would be better if it numerically tied to the cumulative interest amounts recorded in the first two entries. Currently it is potentially confusing to a reader.

The Society is supportive of the proposed simplistic approach of tracking accrual versus cash variances at the gross, pre-capitalization level. Had the OEB decided to require enterprises to separately track benefits accrual versus cash variances at the capital and expense level, it would have been appropriate to also include illustrative journal entries showing this level of detail.

As noted above, the Society does not support the one-sided calculation of interest on the new variance account. This approach was not presented in the consultation. Nor was it included in KPMG's background report that identified options, including the use of a variance tracking account. The Society is concerned that this approach cannot be justified by regulatory precedent. Nor is it consistent with two of the regulatory principles that the OEB has listed in the report, specifically "fairness" and "appropriate allocation of risk." If customers are loaning money to the utility when accumulated accruals exceed cash contributions, the reverse is equally true.

The Society is concerned that the OEB has not provided sufficient rationale for its policy decision to require such a one-sided interest treatment. The two precedents noted in the OEB report do not relate to traditional deferral and variance accounts, which the new tracking account clearly is. In addition, the report implies that the treatment is reasonable because utility management can control the quantum and timing of accrual versus cash variances. The Society would dispute this is the case.

The Society is also uneasy with the use of the OEB's reference Construction Work In Progress (CWIP) rate to calculate interest on the new variance tracking account. Whilst the use of a mid-term rate may be more appropriate than the short-term default deferral and variance account rate, other possible methods could have been considered. It could also be argued that the mid-term CWIP rate would be a more appropriate rate for other deferral and variance accounts. The Society, like the OEB, does not support the use of the WACC rate as it would require separate capital and expense accounting for benefit variances. This level of precision would be administratively burdensome with small benefit.

3) The Manner in which Carrying Charges are Applied to Balances Tracked in Previously Established Variance Accounts

The Society has no comments on the manner in which carrying charges are to applied to existing variance accounts.

4) The Requirement to Track Only the Gross Accrual Cost as Opposed to Identifying Amounts Expensed vs. Capitalized

The Society concurs with the recommended approach of tracking and recording carrying charges on the gross differential between accrual cost and cash expenditures. Under this method, no separate accounting is required for benefits cost variances related to capitalized labour cost. The Society agrees that this method is appropriate given that only the carrying charges are on variances are being reflected in rates. The method represents a reasonable compromise between theoretical accuracy and practicality, particularly for smaller utilities. It can be justified under the general principle of regulatory simplicity.

5) The Timing of the OEB's Consideration of a Transition to the Accrual Method for Utilities Currently on Cash

The Society supports the OEB's policy determinations with respect to the timing of transition to the accrual method. Making the change at the next cost of service or rebasing opportunity allows for the evaluation of the impacts of adopting the accrual method by a future board and for the potential need for an exception to be fully explored.

6) The Timing of the Disposition of Both the New and Previously Established Variance Accounts

The Society has no concerns with the planned timing of disposition of existing and new variance accounts.